

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

The following facts constitute the emergency:

The impoverishment suffered by young adults who have emancipated from foster/probation care has come to national attention. In response to this issue, at the Federal level the Foster Care Independence Act of 1999 (H.R. 3443) was passed. California passed several bills: Assembly Bill (AB) 427 (Chapter 125, Statutes of 2001), AB 1979 (Chapter 271, Statutes of 2002), and AB 1119 (Chapter 639, Statutes of 2002).

These bills require emergency regulations to provide standards for the accountability and responsibilities of counties, social workers, Independent Living Program Coordinators, and transitional housing providers to implement a two-pronged approach to ensure the immediate protection and preservation of the health and safety of emancipating and former foster/probation youth:

- Emancipation preparation for foster/probation youth in care, and
 - Post-emancipation assistance for youth who have aged out of the state foster/probation system.
1. AB 1979 focuses upon emancipation preparation by requiring standardization of core emancipation preparation services provided by county Independent Living Programs and highlighting accountability issues to ensure that youth will be able to emancipate successfully. Emergency regulations are mandated in the bill to assure that young people will be provided with these services expeditiously.
 2. AB 427 amends Health and Safety Code Section 1559.110 and Welfare and Institutions Code Sections 11400, 16522 and 16522.1 to broaden the eligibility requirements for Transitional Housing Placement Program (THPP) to include youth 16 years of age; to include single-family dwellings and condominiums as permissible housing models; to ensure that otherwise eligible probation youth and youth receiving psychotropic medication be considered for THPP participation; and to establish a county certified transitional housing program for emancipated foster/probation youth ages eighteen to twenty-one years. This bill requires emergency regulations to be drafted by December 31, 2002.

3. The Foster Care Independence Act of 1999 (H.R. 3443) provides directives to states that receive Independent Living Program funds regarding the services they are required to provide foster/probation youth so that they can achieve success as adults. Additionally, the Act allows states to utilize some of the funds for housing for emancipated foster/probation youth.
4. AB 1119 extends the scope of transitional housing eligibility for emancipated foster/probation youth beyond the original parameters of AB 427.
5. Since approximately 4000 young people exit from foster care each year, a delay in implementation of these regulations could cause many of these young people to experience homelessness and poverty as well as many other social ills.
6. Failure to implement these regulations could jeopardize the health and safety of young adults as they leave foster/probation care.
7. Section 1.(d) of AB 1979 (Chapter 271, Statutes of 2002) and Section 13(b)(2) of AB 427 (Chapter 125, Statutes of 2001) both allow the regulations to be filed as emergency regulations, to be exempt from review by the Office of Administrative Law, and to be effective upon filing with the Secretary of State for 180 days. One re-adoption, also exempt from review by the Office of Administrative Law, is allowed and in effect for 180 days.
8. Therefore, in order to protect the health and safety of emancipating foster/probation youth, these regulations are adopted on an emergency basis to be effective upon filing with the Secretary of State.

INFORMATIVE DIGEST

Welfare and Institutions Code Sections 10553 and 10554 and Health and Safety Code Section 1559.110 and Health and Safety Code Section 1559.110, assign responsibility to the California Department of Social Services (CDSS) to make and enforce all rules appropriate to the proper accomplishment of the functions of CDSS.

The proposed regulations address four separate though related elements: The Independent Living Program (ILP), the Transitional Independent Living Plan (TILP), the Transitional Housing Placement Program (THPP), and the Transitional Housing Program (THP)-Plus.

Recognizing the exceptional needs of foster care youth, Congress passed The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (Public Law [PL] 99-272). This Act authorized funds to states for ILP, which includes services, programs and activities to assist eligible youth in Title IV-E funded foster care to make the transition from foster care to independent living. Subsequently, Congress reauthorized the ILP with the Omnibus Budget Reconciliation Act of 1993 (PL 103-66).

However in spite of this support, it was discovered that many of these youth were homeless upon leaving foster care. As a result, Congress passed the Foster Care Independence Act of 1999 (H.R. 3443), also known as the Chafee Foster Care Independence Act. This Act reconfirmed and increased ILP services requirements. In addition, the California Legislature passed Senate Bill (SB) 933 (Chapter 311, Statutes of 1998), which extended ILP services to all eligible foster care youth up to the age of 21 years and gave counties the option of providing ILP services to younger youth.

All eligible foster care youth are permitted but not required to participate in the ILP. However, all foster care youth 16 years old and older must have a TILP whether or not they are participating in the ILP. The TILP is a federally mandated written plan developed by the counties in collaboration with each youth and included in the case plan. The TILP identifies the youth's current level of functioning, emancipation goals and the specific skills needed to prepare the youth to live independently upon leaving foster care. The Chafee Foster Care Independence Act of 1999 and Assembly Bill (AB) 1979 (Chapter 271, Statutes of 2002) enacted provisions that impact TILP requirements.

The THPP is a program under which supervised youth live independently while attending high school and learning the skills of daily living. AB 1198 (Chapter 799, Statutes of 1993) established the pilot THPP. AB 2774 (Chapter 873, Statutes of 1998) allowed THPP statewide implementation, and AB 427 Chapter 125, Statutes of 2001 broadened the THPP eligibility to include youths age 16 and expand permissible housing models.

The THP-Plus originated as a housing program for young adults who have emancipated from foster care and are receiving financial assistance through the Supportive Transition Emancipation Program (STEP). THP-Plus was established by AB 427, which mandated emergency regulations to implement both THPP and THP-Plus provisions. The two programs (THP-Plus and STEP) were delinked by AB1119 so that it is no longer required to be a STEP participant to access THP-Plus.

Implementation of the proposed regulations will provide fair and equitable treatment to eligible foster care youth by providing services and programs to assist them to be self sufficient upon leaving foster care.

COST ESTIMATE

1. Costs and Savings to State Agencies: There will be no additional costs to implement these regulations.
2. Cost and Savings to Local Agencies or School Districts: The Department has determined that these regulations will have no fiscal impact on local agencies or school districts.
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: The Department has determined that these regulations will have no fiscal impact on federal funding to state agencies.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code because these regulations merely amend existing Divisions 11, 30, and 31 regulations and adopt regulations that clarify policy issues for currently funded programs. The Independent Living Program is an existing program that does not impose any new requirements on counties. County participation in THPP and THPP-Plus is optional.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES AND OF ALTERNATIVES CONSIDERED

The Department of Social Services finds that the adoption of these regulations will have no fiscal impact on private persons. There will be no increased cost to RCFE personnel since the total number of hours of required administrator training will not increase. See below for potential impact on small businesses.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 1559.110 and Health and Safety Section 1559.110. Subject regulations implement and make specific Health and Safety Code Sections 1502(a)(1), 1503.5(a), 1559.110, 1159.115, and 50580; Welfare and Institutions Code Sections 366, 602, 706.6, 727.2 and .3, 1896.6, 10553, 10554, 10609.3 and .4, 11155.5, 11400, 11403, 15200, 16501, 16501(c), 16501.5, 16502.1, 16522, 16522.1, .2, .5, and .6, and 18987.6; Section 7000, Family Code; Sections 1940, et seq. Civil Code; and 42 U.S.C. Sections 675 and 677.

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.